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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

Case No. **CV 12-7618**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL (Unlawful Debt  
Collection Practices)**

PROGRESSIVE FINANCIAL  
SERVICES, INC., a corporation; and  
DOES 1 through 10, inclusive,  
  
Defendants.

1. This is an action for damages brought by an individual consumer against Defendants for violations of the Federal Fair Debt Collections Practices Act and California Rosenthal Act which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices and for invasion of privacy.

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331. Supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C.

§1367. Venue in this District is proper in that the Defendants transact business here and the conduct complained of occurred here.

### III. PARTIES

3. Plaintiff ALMATINA SMITH is a natural person residing in the State of California, County of Los Angeles.

4. Defendant PROGRESSIVE FINANCIAL SERVICES, INC. is a corporation doing business of collecting debts in California operating from an address at 1919 W. FAIRMONT DRIVE, BUILDING 8, TEMPE, AZ 85282.

5. Defendants are engaged in the collection of debts from consumers using the mail and telephone. Defendants regularly attempt to collect consumer debts alleged to be due to another. Defendants are “debt collectors” as defined by the FDCPA, 15 U.S.C. §1692a(6), and by the Rosenthal Act, California Civil Code 1788.2(c).

6. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. 1692a(3).

7. The purported debt that Defendants attempted to collect from Plaintiff was a “debt” as defined by the FDCPA, 15 U.S.C. §1692a(5).

8. Plaintiff is a “debtor” as defined by the Rosenthal Act, California Civil Code 1788.2(h).

9. The purported debt which Defendants attempted to collect from Plaintiff is a “consumer debt” as defined by the Rosenthal Act, California Civil Code §1788.2(f).

10. The true names and capacities, whether individual, corporate (including officers and directors thereof), associate or otherwise of Defendants sued herein as DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes, and alleges that each Defendant designated as a DOE is involved in or is in some manner responsible as a principal, beneficiary, agent, co-conspirator, joint venturer, alter ego, third party beneficiary, or otherwise, for the agreements, transactions, events and/or acts hereinafter described, and thereby proximately caused injuries and damages to Plaintiff. Plaintiff requests that when the

1 true names and capacities of these DOE Defendants are ascertained, they may be inserted in  
2 all subsequent proceedings, and that this action may proceed against them under their true  
3 names.

#### 4 IV. FACTUAL ALLEGATIONS

5 11. Plaintiff allegedly owed Defendant PROGRESSIVE FINANCIAL SERVICES,  
6 INC. ("Progressive") a debt (the "debt").

7 12. Plaintiff, in good faith, made arrangements with Progressive to pay off the debt.

8 13. Plaintiff and Progressive agreed that Plaintiff would make a payment in the  
9 amount of \$20 to Progressive starting June 30, 2012 and continuing thereon until the debt  
10 was paid in full.

11 14. Plaintiff provided Progressive her account number to debit the payment at the  
12 end of June as agreed.

13 15. Progressive then contacted Plaintiff on or about June 15, 2012 and informed  
14 Plaintiff that the payment did not go through.

15 16. Plaintiff informed the Progressive representative that the parties agreed to debit  
16 the payment at the end of the month.

17 17. Progressive's representative then stated that Progressive would have to garnish  
18 Plaintiff's wages since the payment did not go through.

19 18. Progressive then unexpectedly debited Plaintiff's account on or about July 20,  
20 2012 without her permission or knowledge.

21 19. The July 20 debit caused Plaintiff trouble in making her car payment.

22 20. Progressive further engaged in a campaign of excessive and harassing phone  
23 calls to collect payment on the debt.

24 21. Progressive contacted Plaintiff's work in addition to her cell phone.

25 22. Plaintiff requested the calls to her work cease as her employer has a policy  
26 against such calls.

27 23. Progressive however continued contacting Plaintiff at her work.

28 24. Plaintiff estimates Progressive contacted her at work around ten (10) times.

1 25. Progressive also spoke to one of her supervisors on at least two occasions.

2 26. During one phone call, a Progressive representative told Plaintiff to donate  
3 blood in order to make payment on the debt.

4 27. Progressive representatives further threatened to garnish Plaintiff's wages.

5 28. Progressive also contacted Plaintiff's sister and told her that Plaintiff owed a  
6 debt.

7 29. As a result of Defendants' conduct, Plaintiff suffered from emotional distress.

8  
9 **V. FIRST CLAIM FOR RELIEF**

10 **(Against Defendants for Violations of the Fair Debt Collection Practices Act)**

11 30. Plaintiff repeats, realleges and incorporates by reference all of the foregoing  
12 paragraphs.

13 31. Defendants violated the FDCPA. Defendants' violations include, but are not  
14 limited to, the following:

- 15 (a) The Defendants violated 15 U.S.C. § 1692b(1) by contacting a  
16 person other than the Plaintiff and failing to identify him/herself,  
17 and/or failing to state that he/she is confirming or correcting location  
18 information concerning the Plaintiff;
- 19 (b) The Defendants violated 15 U.S.C. § 1692b(2) by communicating with  
20 persons other than the Plaintiff and stating that the Plaintiff owes debt;
- 21 (c) The Defendants violated 15 U.S.C. § 1692b(3) by communicating with  
22 persons other than the Plaintiff and contacting that person more than once;
- 23 (d) The Defendants violated 15 U.S.C. § 1692c(a)(1) by communicating  
24 with the Plaintiff at an unusual time or place and/or communicating  
25 with the Plaintiff at a time or place known or which should have been  
26 known to be inconvenient to the Plaintiff;
- 27 (e) The Defendants violated 15 U.S.C. § 1692c(a)(3) by contacting the  
28 Plaintiff's place of employment when the debt collector knew or had

1 reason to know that the Plaintiff's employer prohibited such  
2 communication;

3 (f) The Defendants violated 15 U.S.C. §1692c(b) by communicating with a  
4 third person in connection with the collection of a debt;

5 (g) The Defendants violated 15 U.S.C. § 1692d by engaging in conduct the  
6 natural consequence of which is to harass, oppress, and abuse persons in  
7 connection with the collection of the alleged debt;

8 (h) The Defendants violated 15 U.S.C. § 1692d(5) by causing the phone to  
9 ring or engaging a person in telephone conversations repeatedly with the  
10 intent to harass, oppress, and abuse the Plaintiff in connection with the  
11 collection of the Debt;

12 (i) The Defendants violated 15 U.S.C. § 1692e by using false, deceptive, or  
13 misleading representations or means in connection with the collection of a  
14 debt;

15 (j) The Defendants violated 15 U.S.C. § 1692e(5) by threatening to take  
16 action that could not legally be taken or that was not intended to be taken;

17 (k) The Defendants violated 15 U.S.C. § 1692e(10) by using a false  
18 representation or deceptive means to collect or attempt to collect any  
19 debt or to obtain information regarding a consumer; and

20 (l) The Defendants violated 15 U.S.C. § 1692(f) by using unfair or  
21 unconscionable means to collect or attempt to collect a debt.

22 32. As a result of the above violations of the Fair Debt Collection Practices Act,  
23 Defendants are liable to the Plaintiff for Plaintiff's actual damages, statutory damages, and  
24 attorney's fees and costs pursuant to 15 U.S.C. §1692k.

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**VI. SECOND CLAIM FOR RELIEF**

**(Against all Defendants for Violations of the California Rosenthal Act)**

33. Plaintiff repeats, realleges and incorporates by reference all of the foregoing paragraphs.

34. Defendants violated the Rosenthal Act, by including but not limited to, the following:

- (a) Defendants violated California Civil Code §1788.11(d) by causing a telephone to ring repeatedly or continuously to annoy the person called;
- (b) Defendants violated California Civil Code §1788.11(e) by communicating with the Plaintiff with such frequency as to be unreasonable and to constitute an harassment to the Plaintiff under the circumstances; and
- (c) Defendants violated California Civil Code §1788.12(a) by communicating with the Plaintiff's employer regarding the debtor's debt;
- (d) Defendants violated California Civil Code §1788.12(b) by communicating information regarding a consumer debt to a member of the Plaintiff's family; and
- (e) The Defendants violated California Civil Code §1788.17 by failing to comply with the FDCPA as alleged above.

35. Defendants' acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

36. As a proximate result of Defendants' violations enumerated above, Plaintiff was damaged in amounts which are subject to proof.

37. Defendants' violations of the Rosenthal Act were willful and knowing. Defendants are therefore liable to Plaintiff for Plaintiff's actual damages, statutory damages, and attorney's fees and costs pursuant to California Civil Code §1788.30.

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**VII. THIRD CLAIM FOR RELIEF**

**(Against all Defendants for Invasion of Privacy: Intrusion Into Private Affairs)**

38. Plaintiff repeats, realleges and incorporates by reference all of the foregoing paragraphs.

39. Plaintiff had a reasonable expectation of privacy in her solitude, seclusion, and private concerns and affairs.

40. Defendants willfully and intentionally intruded into Plaintiff's solitude, seclusion, and private affairs by repeatedly and unlawfully attempting to collect a Debt.

41. Defendants' intrusions would be highly offensive to a reasonable person and did in fact offend Plaintiff.


42. As a result of such invasions of privacy, Plaintiff was harmed and caused emotional distress.

43. Defendants acted with oppression and malice and are therefore liable to Plaintiff for damages in an amount to be proven at trial, and for punitive damages.

**WHEREFORE**, Plaintiff respectfully requests that judgment be entered against Defendants, and each of them, for the following:

- (a) Actual damages;
- (b) Statutory damages pursuant to 15 U.S.C. §1692k and Cal. Civ. Code §1788.30(a);
- (c) Costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k and Cal. Civ. Code §1788.30(b) and §1788.30(c);
- (d) For punitive damages; and
- (e) For such other and further relief as the Court may deem just and proper.

Date: 8/29/12

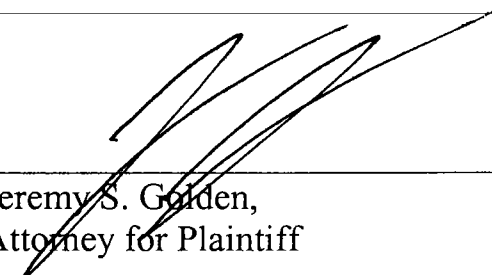
  
\_\_\_\_\_  
Jeremy S. Golden,  
Attorney for Plaintiff

**DEMAND FOR JURY TRIAL**

Please take notice that Plaintiff demands trial by jury in this action.

Date: \_\_\_\_\_

8/29/12

  
\_\_\_\_\_  
Jeremy S. Golden,  
Attorney for Plaintiff



**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)  
ALMATINA SMITH, an individual,

**DEFENDANTS**  
PROGRESSIVE FINANCIAL SERVICES, INC., a corporation; and DOES 1 through 10, inclusive,

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Jeremy S. Golden (SBN 228007) Golden & Cardona-Loya, LLP  
3130 Bonita Road, Suite 200B, Chula Vista, CA 91910. Phone (619) 476-0030

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** - For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:** ☐ Yes ☒ No

☐ **MONEY DEMANDED IN COMPLAINT: \$** \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq.

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**CV12-7618**

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER): \_\_\_\_\_ Date 08/29/2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))